

REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on January 24, 2007. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-460 on the account statement.

Claims 1-24 are pending in this application. In the Office Action, Claims 12-19 are rejected under 35 U.S.C. §112, second paragraph. Claims 1- 4, and 6-11 are rejected under 35 U.S.C. §102. Claims 12-24 are rejected under 35 U.S.C. §103. In response, Claim 12 has been amended. The amendment does not add new matter. In view of the amendment and at least for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 12-19 are rejected under 35 U.S.C. §112, second paragraph as failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. Specifically, the Patent Office asserts that Claim 12 is incomplete for omitting the essential step of marketing a customized food product for a pet using a kiosk. See, Office Action, page 2, lines 9-12. In response, Claim 12 has been amended. In view of the amendment, Applicants respectfully submit that the rejection should be withdrawn.

Currently amended independent Claim 12 recites, in part, a method comprising: i) providing the kiosk including at least one of a consumer interaction station, an analysis station and a workstation, ii) providing a questionnaire at the consumer interaction station for profiling pets, iii) performing an analysis of a biological sample for a pet at the analysis station, iv) receiving a customized pet food product formula based on the questionnaire answers and the biological sample at the analysis station, and v) preparing a sample of the customized product for the consumer at the workstation. Currently amended independent Claim 12 recites a method without reciting marketing a customized food product in the preamble. Although Applicants do not believe the rejection was proper, Applicants respectfully submit that no argument can be made that independent Claim 12 omits an essential method step of marketing a customized food product.

Accordingly, Applicants respectfully request that the rejection of Claim 12 and Claims 13-19 that depend therefrom under 35 U.S.C. §112, second paragraph be withdrawn.

In the Office Action, Claim 1-4 and 6-11 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,416,270 to Steury et al. ("*Steury*"). Applicants respectfully disagree and traverse the rejection for at least the reasons set forth below.

Independent Claim 1 recites, in part, a kiosk configured for selling and manufacturing customized food for a pet, said kiosk comprising a customer interface area for receiving information regarding the pet, a biological sample analysis and handling area for analyzing the biological information regarding the pet, a computer for receiving information regarding the pet and generating a pet profile, a base product display area, at least one product additive storage area having at least one shelf, and an ingredient mixing and customer observation area.

In contrast, Applicants respectfully submit that *Steury* fails to disclose or suggest every element of Claim 1. For example, *Steury* fails to disclose or suggest a customer interface area for receiving information regarding the pet, a biological sample analysis and handling area for analyzing the biological information regarding the pet, and a computer for receiving information regarding the pet and generating a pet profile. *Steury* also fails to disclose or suggest an ingredient mixing and customer observation area. In fact, *Steury* is directed entirely to a self-service automated library kiosk for dispensing items and accepting returns. At no place in the disclosure does *Steury* even suggest a kiosk configured for selling and manufacturing customized food for a pet as is required, in part, by Claim 1.

Although the Patent Office alleges that a dispenser having multiple storage locations and shelving that supports bottomed and bottomless slide drawers that contain inventory of *Steury* is equivalent to the product additive storage area of the present disclosure, the multiple storage locations refer simply to drawers that contain, for example, inventory to be dispensed to a consumer. See, *Steury*, column 2, lines 14-18. *Steury* provides no teaching or suggestion to one of ordinary skill in the art that the drawers can be or are used to store pet food products that are mixed with other ingredients before the pet food product is dispensed to a consumer.

Applicants respectfully submit that the Patent Office has failed to demonstrate that any portion of *Steury* is directed to a kiosk configured for selling and manufacturing customized food for a pet as is required, in part, by Claim 1, let alone any reference whatsoever to customized pet

food products. Moreover, the Patent Office has failed to provide any specific evidence within *Steury* showing that the automated kiosk could be used for selling and manufacturing customized food for a pet.

Therefore, for the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2-4 and 6-11 that depend from Claim 1 are novel, non-obvious and distinguishable from the cited reference.

Accordingly, Applicants respectfully request that the rejection of Claims 1-4, and 6-11 under 35 U.S.C. §102(e) to *Steury* be withdrawn.

In the Office Action, Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Steury*. Applicants respectfully submit that the patentability of Claim 1 as previously discussed renders moot the obviousness rejection of Claim 5 that depends from Claim 1. In this regard, the cited reference fails to teach or suggest the elements of Claim 5 in combination with the novel elements of Claim 1.

In the Office Action, Claims 12-15 and 17-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,681,717 to Burghardi et al. ("*Burghardi*"). Applicants respectfully submit that *Burghardi* fails to disclose or suggest all of the elements of the present claims.

Currently amended independent Claim 12 recites, in part, a method comprising: i) providing the kiosk including at least one of a consumer interaction station, an analysis station and a workstation, ii) providing a questionnaire at the consumer interaction station for profiling pets, iii) performing an analysis of a biological sample for a pet at the analysis station, iv) receiving a customized pet food product formula based on the questionnaire answers and the biological sample at the analysis station, and v) preparing a sample of the customized product for the consumer at the workstation.

Similarly, independent Claim 20 recites, in part, a method for providing a customized food product for a pet using a kiosk where the method includes i) providing the kiosk including at least one of a customer interface area, a biological sample analysis and handling area, a base product storage area, at least one product additive storage area and an ingredient mixing and customer observation area, ii) receiving at least one of a biological sample and pet questionnaire information at the customer interface area, iii) processing the data from the sample and the

questionnaire at the biological sample analysis and handling area, iv) selecting a kibble from the base product storage area based on the processed data, v) mixing a customized additive from ingredients stored in the product additive storage area at the ingredient mixing and customer observation area based on the processed data, and vi) presenting the selected kibble and the customized additive to the customer at the ingredient mixing and customer observation area. In contrast, Applicants respectfully submit that *Burghardi* fails to teach or suggest all of the elements of independent Claims 12 and 20.

As admitted by the Patent Office, *Burghardi* fails to teach or suggest a method for marketing a food product for a pet using a kiosk. See, Office Action, page 6, lines 8-12. Further, *Burghardi* also fails to disclose or suggest providing the kiosk including at least one of a consumer interaction station, an analysis station and a workstation. Although the Patent Office alleges that *Burghardi* discloses that a computer may be located in, for example, a workstation, see, Office Action, page 5, Applicants respectfully submit that providing a computer in a workstation is not the same as, for example, providing a kiosk including at least one of a consumer interaction station, an analysis station and a workstation.

Moreover, at no place in the disclosure does *Burghardi* teach or suggest performing analysis of a biological sample for a pet at an analysis station. Specifically, the Patent Office asserts that certain evaluation criteria including animal production rates, for example, comprises analysis of a biological sample. See, Office Action, page 6, lines 1-2. However, this is not the same "biological sample" disclosed by Applicants. For example, as shown in the Example in Applicants' specification, a "biological sample" refers to a biological sample, such as, for example, a stool sample, that may be analyzed to determine the content of the sample. Applicants respectfully submit that *Burghardi* fails to disclose or suggest analyzing a similar biological sample. Similarly, *Burghardi* fails to disclose the use of a questionnaire, receiving a customized pet food product formula based on the questionnaire answers and a biological sample, or presenting selected kibble and a customized additive to a consumer at an ingredient mixing and customer observation area.

For the reasons discussed above, *Burghardi* does not teach, suggest, or even disclose all of the elements of the present claims, and thus, fails to render independent Claims 12 and 20 and

dependent Claims 13-19 that depend from Claim 12 and dependent Claims 21-24 that depend from Claim 20 obvious.

Accordingly, Applicants respectfully request that the obviousness rejection under *Burghardi* with respect to Claims 12-15 and 17-24 be reconsidered and the rejection be withdrawn.

In the Office Action, Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Burghardi* in view of *Steury*. Applicants respectfully submit that the patentability of Claim 12 as previously discussed renders moot the obviousness rejection of Claim 16 that depends from Claim 12. In this regard, the cited references fail to teach or suggest the elements of Claim 16 in combination with the novel elements of Claim 12, as is discussed herein above.

For at least the foregoing reasons, Applicants respectfully request that the obviousness rejections with respect to Claims 12-24 be reconsidered and the rejections be withdrawn.

Accordingly, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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Dated: April 11, 2007